DOCKET NO. UWY CV-14-6026552 S	:	SUPERIOR COURT
NUCAP INDUSTRIES INC., ET AL	:	J. D. OF WATERBURY
VS.	:	AT WATERBURY
PREFERRED TOOL AND DIE, INC., ET AL	:	SEPTEMBER 18, 2015

RULING ON PLAINTIFFS' MOTION TO STRIKE
DEFENDANT BOSCO'S COUNTERCLAIMS (#134)

1. Count Five. "It is well established that the elements of a claim for tortious interference with business expectancies are: (1) a business relationship between the plaintiff and another party; (2) the defendant's intentional interference with the business relationship while knowing of the relationship; and (3) as a result of the interference, the plaintiff suffers actual loss." (Internal quotation marks omitted.) *American Diamond Exchange, Inc.* v. *Alpert*, 302 Conn. 494, 510, 28 A.3d 976 (2011).

"[T]ortious interference requires proof that a defendant intentionally interfered with a *known* business relationship. It is insufficient to allege and prove that the defendant knew or ought to have known that its practices had a tendency or potential, however strong, to interfere with a competitor's business generally. The defendant must intentionally and knowingly target a specific business relationship or relationships." (Emphasis in original; internal quotation marks omitted). *Loiselle* v. *Browning & Browning, LLC*, Superior Court, judicial district of Windham at Putnam, Docket No. CV 10 6001942 (December 29, 2011, *Vacchelli, J.*) (granting motion to strike). See also *Negro* v. *Hirsch*, Superior Court, judicial district of Tolland at Rockville, Docket No. CV 03 0083003 (August 31, 2004, *Wagner, J.*) 37 Conn.L.Rptr. 769) (granting motion to strike).

Here, the counterclaim-plaintiff alleges only that the counterclaim-defendants made misrepresentations concerning him to individuals with whom he "could seek employment," as a result of which he has been unable to gain employment. See Count Five, ¶¶ 58-59. No intentionally and knowingly targeted specific business relationship or relationships are alleged.

A vague allegation about unnamed individuals with whom the counterclaim-plaintiff could seek employment does not comply with Practice Book § 10-1, which requires "a plain and concise statement of the material facts on which the pleader relies." Thus, more specific allegations are required and their inclusion may not be avoided by the hope that these gaps may be filled in through discovery.

Since, for the above reasons, Count Five is legally insufficient to state a claim for tortious interference with business expectancies, the court need not address the parties' arguments concerning the economic loss doctrine.

2. Count Six. "An action for abuse of process lies against any person using a legal process against another in an improper manner or to accomplish a purpose for which it was not designed. . . . Because the tort arises out of the accomplishment of a result that could not be achieved by the proper and successful use of process . . . the gravamen of the action for abuse of process is the use of a legal process . . . against another *primarily* to accomplish a purpose for which it is not designed. . . . [T]he [use] of primarily is meant to exclude liability when the process is used for the purpose for which it is intended, but there is an incidental motive of spite or an ulterior purpose of benefit to the defendant." (Emphasis in original; internal quotation marks omitted.) *MacDermid* v. *Leonetti*, 310 Conn. 616, 633-34, 79 A.3d 60 (2013).

In Count Six, paragraphs 64-65, the counterclaim-plaintiff has not alleged facts to support his allegations that the counterclaim defendants have instituted this legal action primarily for an improper purpose. "[T]he plaintiff fails to allege sufficient facts showing that the lawsuit was primarily filed for an improper purpose. Mere conclusions of law that the defendant filed a . . . lawsuit to intimidate the plaintiff . . . do not rise to the level of 'specific misconduct intended to cause specific injury outside of the normal contemplation of private litigation.' *Suffield Development Associates Ltd. Partnership v. National Loan Investors, L.P.*, [260 Conn. 766,] 776 [, 802 A.2d 44 (2002)]." *Mills* v. *Harrison*, Superior Court, judicial district of New Haven at New Haven, Docket No. NNH CV 14 6050939 (April 8, 2015, *Fischer, J.*).

Accordingly, the motion to strike Counts Five and Six of the Counterclaim is granted.

BY THE COURT

Robert B. Shapiro

ROBERT B. SHAPIRO
JUDGE OF THE SUPERIOR COURT

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